

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**AMERICA'S HEALTH INSURANCE
PLANS,**

Plaintiff,

v.

**RALPH T. HUDGENS, in his official
capacity as Georgia Insurance and
Safety Fire Commissioner,**

Defendant.

Civil Action No. 1:12-cv-02978-WSD

CONSENT JUDGMENT

In complete and final resolution of this case, the Parties hereby stipulate and agree, and ask this Court to enter a final judgment ordering, as follows:

1. This case was brought by Plaintiff America's Health Insurance Plans ("AHIP") against Defendant Ralph T. Hudgens, in his official capacity as Georgia Insurance and Safety Fire Commissioner ("Commissioner"). AHIP alleges that Sections 4, 5, and 6 of the Georgia Insurance Delivery Enhancement Act of 2011 (collectively, "IDEA"), which amended Georgia's Insurance Code, including Georgia's "Prompt Pay" laws (amending O.C.G.A. §§ 33-23-100 and 33-24-59.5 of the Georgia Code and adding § 33-24-59.14), are preempted under Section 514(a) of ERISA.

2. This Court previously entered an order dated December 31, 2012, granting AHIP's motion for preliminary injunction to prevent the Commissioner from giving effect to or enforcing Sections 4, 5, and 6 of IDEA against self-funded ERISA health benefits plans and their third-party administrators ("TPAs"). This Court granted the preliminary injunction on the basis that IDEA is preempted under Section 514(a) of ERISA.

3. On appeal, the United States Court of Appeals for the Eleventh Circuit affirmed this Court's Order preliminarily enjoining enforcement of Sections 4, 5, and 6 of IDEA in an order dated February 14, 2014. On March 19, 2014, the Court of Appeals issued its mandate, returning the case to this Court.

4. In consideration of these orders and rulings, the Parties have agreed to resolve all matters in controversy in this action through this Consent Judgment, without the need for further litigation.

5. This Court's preliminary injunction is hereby converted to a permanent injunction. Defendant Commissioner and his successors in office, as well as any of their officers, agents, subordinates, or employees, are enjoined from giving effect to or enforcing Sections 4, 5, and 6 of IDEA against self-funded ERISA health benefits plans, as well as their TPAs when acting on behalf of the self-funded ERISA health benefits plans. Sections 4, 5, and 6 of IDEA are

declared preempted under Section 514(a) of ERISA and invalid as applied to self-funded ERISA health benefits plans and their TPAs when acting on behalf of the self-funded ERISA health benefits plans.

6. This Consent Judgment fully and finally resolves this case. Each party shall bear its own costs and expenses, including attorneys' fees, arising in connection with any stage of the above-referenced proceeding.

DONE AND ORDERED at Atlanta, Georgia, this 30th day of

May, 2014.


WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE

This Order entering Consent Judgment is consented to by:

FOR PLAINTIFF AHIP:

/s/ James A. Washburn

James A. Washburn
james.washburn@troutmansanders.com
Georgia Bar No. 738845

TROUTMAN SANDERS LLP
600 Peachtree Street, NE Suite 5200
Atlanta, GA 30308
Telephone: 404.885.3346
Fax: 404.885.3900

Bruce P. Brown
bbrown@brucebrownlaw.com
Georgia Bar No. 064460

BRUCE P. BROWN LAW LLC
309 N. Highland Avenue, Suite A
Atlanta, GA 30307
Telephone: 404.584.0400
Fax: 888.805.7688

Miguel A. Estrada*
mestrada@gibsondunn.com
Geoffrey Sigler*
gsigler@gibsondunn.com
Nikesh Jindal*
njindal@gibsondunn.com

GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, DC 11101
Telephone: 202.955.8500
Fax: 202.467.0539

*Attorneys for Plaintiff America's Health
Insurance Plans*

**pro hac vice*

FOR DEFENDANT COMMISSIONER:

/s/ Daniel Walsh

Daniel Walsh
dwalsh@law.ga.gov
Georgia Bar No. 735040

Senior Assistant Attorney General
Department of Law
State of Georgia
40 Capitol Square, SW
Atlanta, Georgia 30334-1300
Telephone: 404.657.2204
Fax: 404.657.0677